



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

(A-570-053)

Certain Aluminum Foil from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Effective March 28, 2017.

FOR FURTHER INFORMATION CONTACT: Tom Bellhouse at (202) 482-2057 or Steve Bezirgianian at (202) 482-1131, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petition

On March 9, 2017, the Department of Commerce (the Department) received an antidumping duty (AD) petition concerning imports of certain aluminum foil (aluminum foil) from the People's Republic of China (PRC), filed in proper form on behalf of The Aluminum Association Trade Enforcement Working Group (the petitioner).¹ The AD petition was accompanied by a countervailing duty (CVD) petition for aluminum foil from the PRC.² The petitioner is a producer of aluminum foil.³

¹ See Petitions for the Imposition of Antidumping and Countervailing Duties, dated March 9, 2017 (the Petition), at Volumes I and II.

² *Id.*, at Volume III.

³ *Id.*, at Volume I.

On March 14, 2017, the Department requested additional information and clarification of certain areas of the Petition.⁴ The petitioner filed responses to these requests on March 16, 2017, March 17, 2017, and March 22, 2017.⁵

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of aluminum foil from the PRC are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that imports of aluminum foil from the PRC are materially injuring, or threaten material injury to, the domestic industry producing aluminum foil in the United States. Also, consistent with section 732(b)(1) of the Act, the Petition is accompanied by information reasonably available to the petitioner supporting its allegations.

The Department finds that the petitioner filed this Petition on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(E) of the Act. The Department also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the AD investigation that the petitioner is requesting.⁶

Period of Investigation

Because the Petition was filed on March 9, 2017, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) is July 1, 2016, through December 31, 2016.

⁴ See Letters from the Department to the petitioner entitled, “Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Aluminum Foil from the People’s Republic of China: Supplemental Questions,” dated March 14, 2017 (General Issues Supplemental Questionnaire); *see also* “Petition for the Imposition of Antidumping Duties on Imports of Certain Aluminum Foil from the People’s Republic of China: Supplemental Questions,” dated March 14, 2017 (AD Supplemental Questionnaire), and Letter from the petitioner, “Re: Certain Aluminum Foil from the People’s Republic of China—Petitioners’ Second Amendment to Petition to Modify Scope Definition,” dated March 22, 2017 (Scope Revision).

⁵ See Letter from the petitioner to the Department entitled, “Petitioners’ Responses to Department’s Questions on General and Injury Volume of Petition and Amendment to Petition to Modify Scope Language,” dated March 16, 2017 (General Issues Supplement); *see also* Letter from the petitioner to the Department entitled, “Petitioners’ Response to the Department’s Supplemental Questionnaire Relating to Antidumping Duty Petition,” dated March 17, 2017 (AD Supplemental Response).

⁶ See the “Determination of Industry Support for the Petition” section below.

Scope of the Investigation

The product covered by this investigation is aluminum foil from the PRC. For a full description of the scope of this investigation, *see* the “Scope of the Investigation,” in Appendix I of this notice.

Comments on Scope of the Investigation

During our review of the Petition, we issued questions to, and received responses from, the petitioner pertaining to the proposed scope to ensure that the scope language in the Petition would be an accurate reflection of the products for which the domestic industry is seeking relief.⁷ As a result of the responses submitted by the petitioner, we have revised the original scope.⁸

As discussed in the preamble to the Department’s regulations,⁹ we are setting aside a period for interested parties to raise issues regarding product coverage (scope). The Department will consider all comments received from parties and, if necessary, will consult with parties prior to the issuance of the preliminary determination. If scope comments include factual information (*see* 19 CFR 351.102(b)(21)), all such factual information should be limited to public information. In order to facilitate preparation of its questionnaires, the Department requests all interested parties to submit such comments by 5:00 p.m. Eastern Time (ET) on Tuesday, April 18, 2017. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on Tuesday, April 28, 2017.

The Department requests that any factual information the parties consider relevant to the scope of the investigation be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation

⁷ *See* General Issues Supplemental Questionnaire; *see also* General Issues Supplement at 3-6 and Exhibit GEN-Supp. 1, and Scope Revision.

⁸ *See* Appendix I.

⁹ *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

may be relevant, the party may contact the Department and request permission to submit the additional information. All such comments must also be filed on the record of the concurrent CVD investigation.

Filing Requirements

All submissions to the Department must be filed electronically using Enforcement & Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).¹⁰ An electronically filed document must be received successfully in its entirety by the time and date when it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement & Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Comments on Product Characteristics for AD Questionnaires

The Department requests comments from interested parties regarding the appropriate physical characteristics of aluminum foil to be reported in response to the Department's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant factors and costs of production accurately as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide

¹⁰ See 19 CFR 351.303 (describing general filing requirements); *see also* *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011) and *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

comments as to which characteristics are appropriate to use as: 1) general product characteristics and 2) product-comparison criteria. We note that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe aluminum foil, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaire, all comments must be filed by 5:00 P.M. ET on Wednesday, April 12, 2017. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on Wednesday, April 19, 2017. All comments and submissions to the Department must be filed electronically using ACCESS, as explained above, on the record of this less-than-fair-value investigation.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the

petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,¹¹ they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹²

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petition).

¹¹ See section 771(10) of the Act.

¹² See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that aluminum foil, as defined in the scope, constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.¹³

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the “Scope of the Investigation,” in Appendix I of this notice. The petitioner provided 2016 domestic like product production data for U.S. producers that are known to support the Petition. The petitioner also estimated total 2016 production of the domestic like product for the remaining producers in the U.S. industry. To establish industry support, the petitioner compared the production of companies supporting the Petition to the total 2016 production of the domestic like product for the entire domestic industry.¹⁴ We relied on data the petitioner provided for purposes of measuring industry support.¹⁵

Our review of the data provided in the Petition and other information readily available to the Department indicates that the petitioner has established industry support for the Petition.¹⁶ First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department

¹³ For a discussion of the domestic like product analysis in this case, *see* Antidumping Duty Investigation Initiation Checklist: Certain Aluminum Foil from the People’s Republic of China (PRC AD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Aluminum Foil from the People’s Republic of China, (Attachment II). This checklist is dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

¹⁴ *See* Volume I of the Petition, at 4-6 and Exhibits GEN-1A and GEN-8.

¹⁵ *Id.* For further discussion, *see* PRC AD Initiation Checklist, at Attachment II.

¹⁶ *See* PRC AD Initiation Checklist, at Attachment II.

is not required to take further action in order to evaluate industry support (*e.g.*, polling).¹⁷

Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.¹⁸ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.¹⁹ Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

The Department finds that the petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(E) of the Act and it has demonstrated sufficient industry support with respect to the AD investigation that it is requesting that the Department initiate.²⁰

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²¹

The petitioner contends that the industry's injured condition is illustrated by reduced

¹⁷ See section 732(c)(4)(D) of the Act; *see also* PRC AD Initiation Checklist, at Attachment II.

¹⁸ See PRC AD Initiation Checklist, at Attachment II.

¹⁹ *Id.*

²⁰ *Id.*

²¹ See Volume I of the Petition, at 11 and Exhibit GEN-7.

market share; underselling and price suppression or depression; lost sales and revenues; decreasing U.S. shipment and production trends, as well as low capacity utilization rates; declines in production-related workers and wages paid; and deterioration in financial performance.²² We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.²³

Allegation of Sales at Less Than Fair Value

The following is a description of the allegation of sales at less than fair value upon which the Department based its decision to initiate an investigation of imports of aluminum foil from the PRC. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the initiation checklist.

Export Price

The petitioner based U.S. price on two offers by PRC producers for sales of aluminum foil produced in the PRC.²⁴ The petitioner made deductions from U.S. price, as appropriate and consistent with sale and delivery terms, for unrebated value added tax, foreign inland freight expenses, foreign brokerage and handling expenses, ocean freight expenses, marine insurance expenses, U.S. duties, merchandise processing fees, harbor maintenance fees, and U.S inland freight expenses.²⁵

Normal Value

²² *Id.*, at 9-23 and Exhibits GEN-4 and GEN-7 through GEN-10.

²³ See PRC AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Aluminum Foil from the People's Republic of China (Attachment III).

²⁴ See Volume II of the Petition, at 3-4 and Exhibit AD-1A, Exhibit AD-1B; *see also* AD Supplemental Response at 2, 4-6, and Exhibit AD-Supp. 1A, Exhibit AD-Supp. 7C.

²⁵ See Volume II of the Petition, at 4-6 and Exhibit AD-3A, Exhibit AD-3B, Exhibit AD-4, Exhibit AD-5, Exhibit AD-6, Exhibit AD-7A; *see also* AD Supplemental Response, at 2-4 and Exhibit AD-Supp. 4, Exhibit AD-Supp. 5, Exhibit AD-Supp. 7B.

The petitioner stated that the Department has identified the PRC as a non-market economy (NME) country as recently as the week before the petitioner filed the petition, and the Department has not since that time published any determination concluding the PRC is a market economy.²⁶ In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Accordingly, the NV of the product is appropriately based on factors of production (FOPs) valued in a surrogate market economy country, in accordance with section 773(c) of the Act.

The petitioner claims that South Africa is an appropriate surrogate country because it is a market economy country that is at a level of economic development comparable to that of the PRC, it is a significant producer of comparable merchandise, and public information from South Africa is available to value all material input factors.²⁷

Based on the information provided by the petitioner, we determine that it is appropriate to use South Africa as a surrogate country for initiation purposes. Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

Factors of Production

The petitioner based the FOPs for materials, labor, and energy on the consumption rates of certain producers of aluminum foil in the United States.²⁸ The petitioner asserts that the

²⁶ See Volume II of the Petition at 1.

²⁷ See Volume II of the Petition at 1-2, 7 and Exhibit AD-2A, Exhibit AD-2B.

²⁸ See Volume II of the Petition at 1-2, 7-10, and Exhibit AD-8A, Exhibit AD-8B, and AD Supplemental Response,

production process for aluminum foil is similar regardless of whether the product is produced in the United States or in the PRC.²⁹ The petitioner valued the estimated factors of production using surrogate values from South Africa, as discussed below.³⁰

Valuation of Raw Materials

The petitioner valued the FOPs for certain raw materials (*i.e.*, aluminum ingot and aluminum scrap) using public import data for South Africa obtained from the Global Trade Atlas (GTA) applicable for the POI.³¹ The petitioner excluded all import values from countries previously determined by the Department to maintain broadly available, non-industry-specific export subsidies and from countries previously determined by the Department to be NME countries.³² In addition, in accordance with the Department's practice, the petitioner excluded imports that were labeled as originating from an unidentified country.³³ For aluminum ingots, the petitioner added international freight charges (*i.e.*, ocean freight and other shipment charges) and inland freight charges,³⁴ but did not make any such additions for aluminum scrap.³⁵ For one of the two sale offer products, the petitioner added the cost of additives used in the melting and casting of aluminum.³⁶ Finally, the petitioner made offsets to cost for estimated scrap generated

at 6-9 and Exhibit AD-Supp. 9A, Exhibit AD-Supp. 9B.

²⁹ See Volume II of the Petition, at 7 and Exhibit AD-8A, Exhibit AD-8B.

³⁰ *Id.* at 2 and 7. See also AD Supplemental Response, at Exhibit AD-Supp. 9A, Exhibit AD-Supp. 9B.

³¹ See Volume II of the Petition at 8-9 and AD Supplemental Response, at Exhibit AD-Supp. 10. The petitioner explained that the data for the months June 2016 through November 2016 were used for these inputs, rather than those of the actual POI (*i.e.*, July 2016 through December 2016), to conform with industry practices regarding the timing of the pricing of inputs used for production. See AD Supplemental Response, at 6-7, citing Exhibit AD-Supp. 1A and Exhibit AD-1B of Volume II of the Petition.

³² See AD Supplemental Response at Exhibit AD-Supp. 10B, Exhibit AD-Supp. 10C.

³³ *Id.*

³⁴ See Volume II of the Petition at 8, and AD Supplemental Response at 7-8 and Exhibit AD-10B, Exhibit AD-10C.

³⁵ See Volume II of the Petition at 9.

³⁶ See Volume II of the Petition at 9, and AD Supplemental Response at 9 and Exhibit AD-Supp. 9A. The petitioner did not make any addition for cost of additives for the other sale offer product, noting the cost of additives for that product was not significant. See Volume II of the Petition at 9.

by the production process.³⁷ The Department determines that the surrogate values used by the petitioner are reasonably available and, thus, are acceptable for purposes of initiation.

Valuation of Energy

The petitioner valued natural gas using the average unit value of imports of liquid natural gas into South Africa.³⁸ The petitioner valued electricity using electricity rates reported by Eskom, South Africa's electricity public utility.³⁹

Valuation of Labor

The petitioner valued labor using the most-recently-available labor data published by the International Labour Organization (ILO).⁴⁰ Specifically, the petitioner relied on the most recently available data pertaining to average monthly earnings in the "manufacturing industries" sector of the South African economy, indexed to the POI using South African consumer price information available from the International Monetary Fund (IMF).⁴¹

Valuation of Packing Materials

The petitioner determined the FOPs for packing materials based on their experience in packing their own products as well as on their knowledge of how PRC producers typically pack aluminum foil for export to the United States.⁴² For one sale offer product, the petitioner indicated the packing materials would be wooden crates and wooden pallets, and valued them based on South Africa import values.⁴³ For the other sale offer product, the petitioner indicated

³⁷ See Volume II of the Petition at 9 and AD Supplemental Response at Exhibit AD-Supp. 9A, Exhibit AD-Supp. 9B.

³⁸ See Volume II of the Petition at 9 and Exhibit AD-11, and AD Supplemental Response at 8 and Exhibit AD-Supp. 11.

³⁹ See Volume II of the Petition at 10 and Exhibit AD-12.

⁴⁰ See Volume II of the Petition at 10 and Exhibit AD-13.

⁴¹ *Id.*; see also AD Supplemental Response at 8 and Exhibit AD-Supp. 13.

⁴² See Volume II of the Petition at 10, and AD Supplemental Response at 9 and Exhibit AD-Supp. 9A, Exhibit AD-Supp. 9B, Exhibit AD-Supp. 9C.

⁴³ See Volume II of the Petition at 10 and AD Supplemental Response at Exhibit AD-Supp. 9A. See also AD

that the packing material would be steel racks, and valued them based on South Africa import values.⁴⁴ For both sale offer products, the petitioner valued labor expenses for packing based on the hourly rates derived from the aforementioned ILO earnings data.⁴⁵

Valuation of Factory Overhead, Selling, General and Administrative Expenses, and Profit

The petitioner calculated ratios for factory overhead, selling, general and administrative expenses based on the 2015 consolidated financial statements of Hulamin, Ltd. (Hulamin), a South African producer of aluminum foil.⁴⁶ Because Hulamin had net financial income rather than net financial expenses, the petitioner reported financial expenses as zero, in accordance with Department practice.⁴⁷ The petitioner calculated a profit rate for Hulamin, and multiplied that rate by the cost of production of each of the two sale offer products to obtain profit values for each. Those profit values, in turn, were added to the cost of production of the respective sale offer products to obtain cost of production plus profit for each of the sale offer products.⁴⁸

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of aluminum foil from the PRC are being, or are likely to be, sold in the United States at less-than-fair value. Based on comparisons of EP to NV, in accordance with section 773(c) of the Act, the estimated dumping margins for aluminum foil from the PRC are 38.40 percent and 140.21 percent.⁴⁹

Supplemental Response at 9 and Exhibit AD-Supp. 9C.

⁴⁴ See Volume II of the Petition at 10-11 and AD Supplemental Response at 9 and Exhibit AD-Supp. 9B.

⁴⁵ See AD Supplemental Response at Exhibit AD-Supp. 9A, Exhibit AD-Supp. 9B.

⁴⁶ See Volume II of the Petition at 11-12 and Exhibit AD-14, Exhibit AD-15, Exhibit AD-16.

⁴⁷ *Id.*, at 11 and Exhibit AD-16.

⁴⁸ *Id.*, at 12 and Exhibit AD-16; see also AD Supplemental Response at Exhibit AD-Supp. 9A, Exhibit AD-Supp. 9B.

⁴⁹ See AD Supplemental Response at Exhibit AD-Supp. 17A, Exhibit AD-Supp. 17B; see also PRC AD Initiation Checklist.

Initiation of Less-than-Fair-Value Investigation

Based upon the examination of the AD Petition on aluminum foil from the PRC, we find that the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an AD investigation to determine whether imports of aluminum foil from the PRC are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we intend to make our preliminary determination no later than 140 days after the date of this initiation.

Under the Trade Preferences Extension Act of 2015, numerous amendments to the AD and CVD laws were made.⁵⁰ The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.⁵¹ The amendments to sections 771(15), 773, 776, and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this AD investigation.⁵²

Respondent Selection

In accordance with our standard practice for respondent selection in AD cases involving NME countries, we intend to issue quantity and value (Q&V) questionnaires to producers/exporters of merchandise subject to the investigation and base respondent selection on the responses received. For this investigation, the Department will request Q&V information from known exporters and producers identified, with complete contact information, in the

⁵⁰ See Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, 129 Stat. 362 (2015).

⁵¹ See *Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015*, 80 FR 46793 (August 6, 2015) (*Applicability Notice*).

⁵² *Id.* at 46794-95. The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

Petition. In addition, the Department will post the Q&V questionnaire along with filing instructions on the Enforcement and Compliance website at <http://www.trade.gov/enforcement/news.asp>.

Producers/exporters of aluminum foil from the PRC that do not receive Q&V questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain a copy from the Enforcement & Compliance website. The Q&V response must be submitted by the relevant PRC exporters/producers no later than April 12, 2017. All Q&V responses must be filed electronically via ACCESS.

Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.⁵³ The specific requirements for submitting a separate-rate application in the PRC investigation are outlined in detail in the application itself, which is available on the Department's web site at <http://enforcement.trade.gov/nme/nme-sep-rate.html>. The separate-rate application will be due 30 days after publication of this initiation notice.⁵⁴ Exporters and producers who submit a separate-rate application and have been selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of the Department's AD questionnaire as mandatory respondents. The Department requires that companies from the PRC submit a response to both the Q&V questionnaire and the separate-rate application by the respective deadlines in order to receive

⁵³ See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving Non-Market Economy Countries (April 5, 2005), available at <http://enforcement.trade.gov/policy/bull05-1.pdf> (Policy Bulletin 05.1).

⁵⁴ Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that "the Secretary may request any person to submit factual information at any time during a proceeding," this deadline is now 30 days.

consideration for separate-rate status. Companies not filing a timely Q&V response will not receive separate rate consideration.

Use of Combination Rates

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of “combination rates” because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.⁵⁵

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the government of the PRC via ACCESS. Because of the particularly large number of producers/exporters identified in the Petition, the Department considers the service of the public version of the Petition to the foreign producers/exporters satisfied by delivery of the public version to the government of the PRC, consistent with 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

⁵⁵ See Policy Bulletin 05.1 at 6 (emphasis added).

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of aluminum foil from the PRC are materially injuring or threatening material injury to a U.S. industry.⁵⁶ A negative ITC determination will result in the investigation being terminated;⁵⁷ otherwise, this investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). Any party, when submitting factual information, must specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted⁵⁸ and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.⁵⁹ Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Please review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

⁵⁶ See section 733(a) of the Act.

⁵⁷ *Id.*

⁵⁸ See 19 CFR 351.301(b).

⁵⁹ See 19 CFR 351.301(b)(2).

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351 expires. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in this investigation.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.⁶⁰ Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petition filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.⁶¹ The

⁶⁰ See section 782(b) of the Act.

⁶¹ See *Certification of Factual Information to Import Administration during Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final*

Department intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under administrative protective order (APO) in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008).

Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed in 19 CFR 351.103(d)).

Rule, available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

This notice is issued and published pursuant to section 777(i) of the Act.

Ronald K. Lorentzen,
Acting Assistant Secretary
for Enforcement and Compliance

March 28, 2017

Date

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is aluminum foil having a thickness of 0.2 mm or less, in reels exceeding 25 pounds, regardless of width. Aluminum foil is made from an aluminum alloy that contains more than 92 percent aluminum. Aluminum foil may be made to ASTM specification ASTM B479, but can also be made to other specifications. Regardless of specification, however, all aluminum foil meeting the scope description is included in the scope.

Excluded from the scope of this investigation is aluminum foil that is backed with paper, paperboard, plastics, or similar backing materials on only one side of the aluminum foil, as well as etched capacitor foil and aluminum foil that is cut to shape.

Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above. The products under investigation are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7607.11.3000, 7607.11.6000, 7607.11.9030, 7607.11.9060, 7607.11.9090, and 7607.19.6000. Further, merchandise that falls within the scope of this proceeding may also be entered into the United States under HTSUS subheadings 7606.11.3060, 7606.11.6000, 7606.12.3045, 7606.12.3055, 7606.12.3090, 7606.12.6000, 7606.91.3090, 7606.91.6080, 7606.92.3090, and 7606.92.6080. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

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